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AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF UTILITY SOURCE, LLC., FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO
PROVIDE WATER AND WASTEWATER
SERVICE TO COCONINO COUNTY,
ARIZONA.

Docket No. WS-04235A-05-0707

**APPLICATION OF
BELLEMONT DEVELOPMENT
CO. FOR LEAVE TO
INTERVENE**

(Ariz.Admin. Code Sec. R14-3-105)

Your Applicant, Bellemont Development Co., files this Application for leave to intervene in the request of Utility Source, LLC., to expand its area of certification and provide additional water and wastewater service as described in the petitioner's application and the Staff Report of March 24, 2006. For reasons provided in the Memorandum below, your Applicant believes they will be materially, substantially, and detrimentally effected by the decision to expand wastewater capacity at the proposed facility to be developed by the petitioner Utility Source, LLC. Your Applicant requests permission to intervene to present evidence and testimony before the Commission that may bear upon the Commission's decision to expand the requested franchise.

RESPECTFULLY SUBMITTED, this 5th day of April, 2006

William P. Ring
Attorney for Bellemont Development Co.

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MEMORANDUM

A. Background and Contentions.

The applicant Bellemont Development Co., is the owner of Coconino County Assessor's Parcel No. 204-03-004A, consisting of 12.46 acres in Bellemont, Arizona.¹ It is our contention that the operation of an expanded wastewater treatment plant will effectively create an off-site effluent retention lagoon on our client's property. It is our contention that our client's property will be overcome with effluent and essentially confiscated for the wastewater treatment plant use. For this reason we oppose expanding the wastewater service area as the petitioner Utility Source, LLC., proposes.

If leave to intervene is granted, then evidence will show the following:

1. Our property has frontage on both Interstate 40 to the north, and Route 66 to the south. The property east and west is undeveloped lands. Our property and the adjacent lands are zoned for commercial development, and commercial development their highest and best use. Our lands have an unnamed drainage which passes through it in a north-south direction. The drainage first flows past the wastewater treatment plant, under I-40, then through our property. The tributary exits our property through a culvert below Rte. 66. A pre-existing cattle tank on our property retains drainage water from what is believed to be a long extinct ranching use.
2. North of I-40 is the residential subdivision to be serviced by the wastewater plant expansion. On or about March 19, 2001, Coconino County approved development of a subdivision in the vicinity and, as a condition of approval, the developer was obligated to

¹Additional coordinates are Township 21N, Range 05E

1 secure an ADEQ-approved wastewater treatment plant. This plant is the subject plant to
2 be expanded herein.

3 3. In preparation for developing a plant, on or about November 29, 1999, Gilbert Road
4 Investors, LLP, applied for a wastewater discharge permit to discharge treated
5 wastewater at the following coordinates: T22N, R5E, Section 36, SWSWSW, at
6 35°14'18" N latitude, 111°49'28" W longitude. These coordinates lie several hundred
7 yards west of our client's subject property. An ADEQ investigation ensued as per the
8 regulatory application procedures.

9 4. In the course of granting the ADEQ permit the operator requested a change to the
10 discharge coordinates. The change came at the insistence of the Navajo Army Depot who
11 had concerns for their drinking water system lagoons. The final new coordinates became
12 35°13'59" N latitude, 111°48'35" W longitude. These new coordinates provide for
13 discharge directly into the tributary that flows upon our client's property.

14 5. The effluent discharge now flows south under I-40 and immediately onto our client's
15 property. Our lands are within 150 yards or so of the discharge point source. The existing
16 permit has the intended effect of discharging 150,000 gallons of effluent per day across
17 our lands. As a result, evidence will show that the tributary and the cattle tank on our
18 lands are full most times of the year with treated effluent.

19 6. Utility Source, LLC.'s current request to expand its service area will double the treatment
20 capacity at full build-out to a total of 300,000 gallons per day.² Staff does not address the
21 downstream effects of doubling plant capacity. Staff and the Commission should take this
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23 ²Staff Report dated March 24, 2006, at p. 3, Wastewater Capacity.

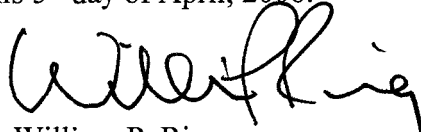
1 matter into consideration when determining the public interests served by this utility
2 operation. If other utilities such as coal-fired power plants or nuclear plants were to
3 double their output of by-products and wastes, the Commission would take the impacts
4 into consideration as a component of balancing the public interest against the utility
5 request. It is also logical to consider whether to require necessary mitigation or to prohibit
6 the expansion altogether. Because discharges related to essential plant function are a
7 component of the total operation it is appropriate for the Commission to consider your
8 Applicant's request. This request does not unduly broaden the scope of the issues under
9 your consideration.

10 7. It is our contention that discharge into the tributary and the pre-existing cattle tank on our
11 client's lands will – and does – have the intended effect of impounding effluent on our
12 property. The tank has become a de facto off-site effluent lagoon in support of the
13 wastewater plant's primary lagoons north of I-40. Expanding the service area and
14 doubling the production as requested will compound the invasion of effluent on our land.
15 Significantly, it will overburden the existing tributary and cattle tank. It will further de-
16 value our client's property, and create conditions of trespass and nuisance.

17 **B. Conclusion and Requested Relief.**

18 Your Applicant Bellemont Development Co., respectfully requests an order from the
19 Commission allowing Bellemont to intervene in the proposed action, to present evidence and
20 testimony on the contentions raised herein, and have the Commission consider whether
21 extending Utility Source, LLC.'s, certificated area is in the public interest.

1 RESPECTFULLY SUBMITTED, this 5th day of April, 2006.

2 

3 William P. Ring
4 Attorney for Bellemont Development. Co

5 ORIGINAL AND 13 COPIES
6 of the foregoing mailed
7 this 5th day of April, 2006, to:

8 Arizona Corporation Commission
9 Docket Control
10 1200 West Washington Street, Room 108
11 Phoenix, Arizona 85007

12 True and Accurate Copies
13 of the foregoing mailed
14 this 5th day of April, 2006, to:

15 Richard Salquist
16 Sallquist, Drummond & O'Connor
17 4500 S. Lakeshore Drive, Suite 339
18 Tempe, Arizona 85282

19 Christopher Kempley, Chief Counsel
20 Arizona Corporation Commission
21 1200 W. Washington Street
22 Phoenix, Arizona 85007

23 Ernest Johnson, Director
24 Utilities Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

Mark Stern, Administrative Law Judge
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

21 I certify that I have this day served the foregoing document on all parties of record in this
22 proceeding as set forth above by mailing a copy, properly addressed and postage pre-paid, and
23 placing the same with the United States Postal Service on April 5, 2006.

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